

REMARKS

Claims 1, 3 and 6-14 are all the claims pending in the Application. Claims 6-13 are withdrawn pursuant to a restriction requirement. Hence, claims 1, 3, and 14 are all the claims which have been examined. Claim 1 is the only independent claim examined.

Preliminary Matters

Applicant thanks the Examiner for considering and initialing the Information Disclosure Statement filed April 7, 2008.

Claim Rejections - 35 U.S.C. § 103

Claims 1, 3 and 14 are again rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Nakagawa (JP 2002-19413). Applicant respectfully traverses.

The Examiner concedes that Nakagawa does not expressly teach a count of between 38 and 60. However, the Examiner takes the position that the disclosed count of 5 to 30 in Nakagawa is just a “preferred” embodiment, and that artisans of ordinary skill would have found it obvious to use additional cord densities, including densities within the claimed range. See the last full paragraph on page 3 of the Office Action. Also, in numbered paragraph 3 on pages 4 and 5 of the Office Action, the Examiner takes the position that the Examples in the specification do not provide a conclusive showing of unexpected results.

Applicant submits that the Examiner has not made a *prima facie* case of obviousness. For example, the Examiner contends that a range of 5 to 30 is a preferred embodiment, and that higher values would have been obvious. However, the Examiner provides no reasoning whatsoever in support of this contention. The Examiner does not even point to a portion of the

reference that suggests using higher values. Applicant submits that Nakagawa actually teaches away from the claimed range.

Paragraph [0038] of the translation of Nakagawa teaches a range of 10/50 mm to 60/50mm. Applicant submits, and the Examiner appears to agree in the Office Action, that this range is analogous to a range of 5 per 25mm to 30 per 25mm. Applicant submits that paragraph [0038] of the translation of Nakagawa states that if the end count falls below 5 per 25 mm, driving stability is compromised. Nakagawa also states that if the end count goes above 30 per 25 mm, the rigidity becomes too high, and the tire will no longer have sufficient grip. Consequently, Applicant submits that there is no need for a showing of unexpected results, and that the Examiner has simply failed to make out even a *prima facie* case of obviousness.

Furthermore, although the upper end of Nakagawa's end count may be numerically closer to that of Examples 2 and 4 of the present application, the fact remains that the end count of Examples 1, 3, and 4 are all outside of the range taught by Nakagawa, and therefore according to Nakagawa's teachings noted above, would not have been obvious to a person having ordinary skill in the art. Applicant submits that conventional examples 1 and 2 of the present application are within Nakagawa's range, and therefore constitute a more appropriate comparison.

Applicant submits that a "showing of unexpected results" is unnecessary if the prior art expressly teaches away from the claimed range. Therefore, as Nakagawa teaches away from the claimed feature, Applicant submits that claim 1 is patentable over the cited art. Applicant further submits that claims 3 and 14 are patentable over the cited art at least by virtue of their respective dependencies.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/SMG/

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